

3rd November 1933]

III.—A BILL FURTHER TO AMEND THE MADRAS ESTATES LAND ACT, 1908, FOR CERTAIN PURPOSES (BILL No. 12 of 1931).

Clause 2 (4).

Section 3 (5).

The hon. the PRESIDENT:—"The discussion on Amendment No. 16, viz., for the words 'subsequent to the 13th day of July 1802,' *substitute* the words 'subsequent to the 1st day of July 1932' will continue."

* The hon. Sir ARCHIBALD CAMPBELL:—"Mr. President, Sir, after some consultation among certain hon. Members, we have agreed that this amendment should be withdrawn and that in its place we should pass an amendment omitting the whole explanation."

Diwan Bahadur B. MUNISWAMI NAYUDU:—"I beg leave to withdraw my amendment, Sir."

The amendment was, by leave, withdrawn.

The hon. Sir ARCHIBALD CAMPBELL:—"With your permission, Sir, I move—

'that sub-clause (4) of clause 2 be omitted.'"

The hon. Diwan Bahadur Sir M. KRISHNAN NAYAR:—"I second it."

The amendment was put and carried.

Clause 2 (5).

Section 3 (5-A).

* Diwan Bahadur B. MUNISWAMI NAYUDU:—"I move, Sir—

'that clause 2, sub-clause (5), be omitted.'"

"Sir, this affects lankas in the Godavari, Kistna and other rivers. The whole sub-clause proceeds on the supposition that in the Act as it now stands lankas are not included and therefore a special provision must be made for lankas. In the Bill as introduced by the Government, we find the following statement:—

'There is no specific provision in the Act regarding lanka lands. It is doubtful whether in all cases they would fall under the head of "old waste." The amendment now proposed brings the law into accord with actual practice. There are permanent lanka lands which are in no way distinguishable from ryoti lands, as they have been held by the same ryots for years on the same rent. In many, if not, in the majority of cases, the occupancy right of such ryots has been recognized by the landholders. There are also lanka lands liable to material changes from a flood in which no right of occupancy had hitherto been claimed or allowed. Lands of the latter description are always leased by auction for a term of years and resumed by the landholder at the end of the term. It is considered desirable that legislation should respect custom in this matter and provide that no occupancy right should be annexed to lands that are "lankas proper," that is, lankas liable to a change.'

"These are the reasons which the Government have given for bringing in amendments with regard to lankas specifically. But I find, Sir, on a reference to the proceedings of the Legislative Council in 1908 that this specific question was raised by the hon. Mr. Sarma who moved an amendment that lankas should not be allowed to come

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into the Act immediately but that the Government should take power to extend the provisions of the Act to lankas as and from time to time they may think necessary. He advanced practically the same arguments as are now urged by the Government in support of their Bill. Before I read what happened then, I wish to state that lankas are lands which are fit for cultivation and therefore will come under the definition of ryoti land under the Act. If nothing else exists in the way of conditions, etc., then lanka land should be as good a ryoti land as any others. If the amendments in the Bill are accepted, the effect of them will be that lanka lands, though cultivable and ryoti, will be excluded from the operation of this Act, and they are to come under the operation of this Act only when they are brought in again by notification by the Collector. I oppose the introduction of this clause on the ground that the occupancy rights which now belong to the ryots who are cultivating lanka lands should not be taken away but should be continued and that this amendment is unnecessary and uncalled for.

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"The amendment was moved, as I said, Sir, by the hon. Mr. B. N. Sarma, who stated, that after the word 'Wynaad' be inserted the words 'the Agency tracts in the districts of Ganjam, Vizagapatam and Godavari included in the Scheduled Districts Act XIV of 1874, and the lanka lands in the beds of rivers and streams.' He says: 'I do not ask for a total exemption from the operation of this Act of the Agency tracts and lanka lands referred to in my amendment, but I plead for a temporary exemption on several grounds.' Then he says: 'With regard to lanka lands, which are proposed to be temporarily exempted from this Act, the Government seems to have been treating the lanka lands in the Godavari delta in a way different from the way in which ryotwari lands are dealt with; and the Standing Order (page 27) directs that a special lease may be taken in the case of lanka lands in the Godavari river. Here, I do not want a total exemption of lanka lands from the operation of the Act. There are lankas and lankas. There are lankas where the ryots have settled for a number of years, and where they have the right to sell them and enjoy all the benefits of the soil. But other lankas might have been of recent origin and lankas may hereafter arise. It may be to the interest of landholders to lease out these lankas, while they are in the course of formation at low rental and there is no particular reason why, when the land is enriched by fluvial deposits, the zamindars should not be allowed to reap larger profits.' Then he says: 'There is no particular hardship involved by the amendment that is proposed, because lankas do not form the ryoti lands proper in which ryots have had rights from time immemorial. For these reasons I beg to propose the amendment.' On these remarks, the hon. Mr. G. S. Forbes on behalf of the Government of the day replied:

"I must confess that I do not understand from the hon. Mover's proposition why the lanka lands should be excepted. No clear reason has been given why they should be excepted more than any other lands. I see no sufficient reason to accept the proposition."

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Then the hon. Mr. Sarma explained that the lankas are shifting in their character. To that the hon. Mr. H. G. Stokes replied:

‘From what the hon. Member says, I understand the position to be this. The lanka is formed, the ryot settles upon and improves it; but he is not to be allowed to get the benefit of his improvement; he is to be put outside, in order that the landlord may, at a subsequent period, steal his improvement. I cannot accept that position.’

Then the hon. Mr. J. N. Atkinson said:

‘The very reason that the hon. Member gives for excluding these lankas from the operation of this Act is the very one that should induce us to include them. He says that lankas are constantly changing here to-day and there to-morrow. What he contemplates is that the Government should enquire where the lankas appear, and issue a notification extending the Act to them; but before the issue of the notification the lankas will have disappeared. It is better to allow the Act to come into force in the case of all lankas without there being any necessity for enquiry. It may be, as the hon. Member said, that some of these lankas are permanent. If they are washed away in one flood season, they reappear in another. I cannot see what there is anything peculiar in lankas that should make them liable to be extended from the operation of this Act. The hon. Member further referred to the tenure or rather the treatment of Government lankas, but I do not quite follow the remarks. The only special treatment that I remember the Government accords to its lankas or rather the special tenure it gives them or the special mode in which it regards them is that the High Court, in one decision, laid down that the tenure under which the cultivators own lands in lankas is not ryotwari; but that was due to a purely technical reason that the Government always leases out its lands at an auction and does not assign them on ryotwari pattas. That is the only peculiarity in the treatment of Government lankas. I do not see how that affects the question whether zamindari lankas should be included in the operation of the Act or not.’

Ultimately, the amendment was lost. It will therefore be found that in 1908, Government took the view that lankas do form ryoti lands, that occupancy rights are there and that there is no need to exempt them or to bring them under notification. The analogy of Government lankas was also not accepted. I understand Sir, in one case which arose from South Vallur, the High Court has confirmed the decision of the lower court that occupancy rights vest in the tenant. I, therefore think, Sir, that there is no necessity to change the Act, exclude lankas and then take power by the backdoor to reintroduce them as ryoti lands for occupancy rights being formed. The provisions so far as lankas are concerned, provide for lankas being brought in by notification of the Collector, and subsequently occupancy rights are conferred. All this procedure is absolutely unnecessary and there is no reason why the ryot already engaged in cultivation and in continued possession should be disturbed. For these reasons, this provision relating to the lankas may be deleted.”

Mr. V. P. NARAYANAN NAMBIYAR:—“I second it.”

* Rao Bahadur Sir A. P. PATRO:—“Mr. President, Sir, I think there is every justification for the omission of this clause, as it is the clause that introduces a great deal of complication without any corresponding benefit to the ryot and much less to the landholder. The position as it is now without this amendment is that the tenant has got the remedy to get a declaration if he has been long in possession. The landlord similarly will be able to obtain relief in the civil court.

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Now, by a stroke of the pen whether there are rights to the cultivating tenant or not, you are declaring all lands as ryoti lands, and you are introducing a new principle in respect of people who are already in possession or occupation or enjoyment of the land. Therefore, to avoid all these complications and much more the bitterness that will be created by this amendment, I would venture to submit to this House that it would be wise and prudent that this clause may be omitted altogether in relation to the lanka lands."

Mr. SAMI VENKATACHALAM CHETTI:—"Sir, Sir Patro, I believe, was rather very delicately speaking upon this subject. I think the object of the Mover was to avoid confusion that will come in, if the Government amendment should be carried, by throwing a doubt on the character of those lanka lands. That is the amendment moved by Mr. Muniswami Nayudu. Our intention is that by the amendment moved by Mr. Muniswami Nayudu, namely, to omit all the definitions moved by Government in regard to lanka lands they should be presumed to be ryoti land or, at any rate, should have the same character as the land to which they are an accretion. But speaking on this, Sir Patro makes it appear quite differently. I am sure speeches will have no bearing when the interpretation section is taken into consideration except by saying that the lands should be assumed to be ryoti lands or lands of the same character as the original land to which they are an accretion."

* Mr. P. PÉDDIRAJU:—"Mr. President, Sir, I want to intervene with regard to this motion because I find that the introduction of this word 'lanka' newly in the Act will complicate matters. I agree with Mr. Muniswami Nayudu in asking the House to omit the definition of 'lankas.' Having come from a district in which there are many lankas, I want to tell the House that there are two kinds of lankas generally in the rivers. Most of the lankas are those in which tenants have got occupancy rights already. There are some lankas which are recently formed now and then, which are let out at high rents. It is not considered as old waste or as private land, and the rent will be two hundred or three hundred per acre. Now, the definition will drive many of these people connected with lankas to court. It is better that the definition is removed altogether."

* The hon. Sir ARCHIBALD CAMPBELL:—"Sir, the hon. Mover quoted from the proceedings of the second reading of the Estates Land Act of 1908. The proposal of Mr. Sarma was that lankas should be excluded entirely from the purview of the Act. That is, of course, the proposal made now in the amendment of the Select Committee Bill. The Committee proposed to treat lankas separately in a different manner from those of other lands until it is proved to the satisfaction of the Collector that they are permanent and until he gives a declaration to that effect. This proposal was, as hon. Members will see, made in Mr. K. Srinivasa Ayyangar's Bill and introduced in all subsequent Bills including the one now before the House. I understand from the

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speeches which have been made that the present proposals in this Bill do not satisfy the parties concerned. I think that it would probably be better therefore to leave these proposals out altogether and, if necessary, the matter may be further considered at a later date. I therefore accept the proposed amendment."

The amendment was put and carried.

Clause 2 (5) and (6).

* Mr. V. T. ARASU:—"I move—

'that in clause 2, sub-clauses (5) and (6), omit the definition of lanka and all subsequent references to lanka.'

"This amendment is only an improvement on the one which has just been adopted by this House. It states that not only that clause 5 should be omitted, but also adds that all other references in subsequent clauses to lankas may be also omitted. If I have understood the hon. the Revenue Member aright, that is also the attitude of the Government. I, therefore, suggest, Sir, that this clause may be taken up after we dispose of the other clauses of the Bill. I formally move this amendment."

Mr. U. C. SUBRAHMANYA BHATT:—"I second it."

* The hon. the PRESIDENT:—"Does the hon. Member mean that the discussion of this clause should be taken up separately later on? I am not able to follow the hon. Member."

* Mr. V. T. ARASU:—"I am simply putting forward a suggestion to the hon. the Revenue Member that the consideration may be taken up later."

* The hon. Sir ARCHIBALD CAMPBELL:—"I have accepted the proposal for dropping all provisions."

* The hon. the PRESIDENT:—"The hon. Member need not move it now. He can do so later on."

Mr. SAMI VENKATACHALAM CHETTI:—"This is given effect to by the previous amendment. Consequently, everything connected with it will be omitted."

* The hon. the PRESIDENT:—"So I have to take it that the hon. Member does not move it."

Clause 2 (6).

* The KUMARARAJA OF VENKATAGIRI:—"Sir, I move the amendment which has been given notice of on behalf of the Justice Party, noon. viz.—

'Omit sub-clause (ii) of clause (7) in section 3.'

"It deals with the definition of 'old waste.' It is unnecessary for me to indent upon the valuable time of the House by dealing with this subject in any detail. It will be sufficient for me to say that this

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will be one of the points on which the zamindars are willing to concede as much as possible. Whether that concession is a substantial one or not, it is not my purpose to deal with that aspect of the question. I hope it will be recognized that on questions where the landholders feel that the tenants have got legitimate grievances they will make all concessions which will not affect the vital interests or which would lead to the crippling of their resources, to the extent the duty they owe to the zamindari class to which they belong permits them. They are prepared to go to the extent stated by the hon. Raja Sahib of Bobbili in his speech in August last, when he suggested that the whole question may be referred to the conference. This is one of the clauses which the Raja Sahib had in his mind. I am very happy that it should fall to my lot, on behalf of the Justice Party, to move this amendment, and I am glad that it has the support of other groups in this House."

Mr. M. A. MUTHIAH CHETTIYAR:—"I second it."

* Diwan Bahadur B. MUNISWAMI NAYUDU:—"Sir, though I gave notice of a similar motion, I did not move it because the effect of my motion being accepted will be that the proposed clause will go. The result is that the original section will remain. The object of the hon. Mover of this amendment is that the definition of 'old waste' should go, that there should be no separate definition of 'old waste' apart from 'ryoti land' and that all amendments regarding 'old waste' should be omitted. The present amendment omits only the latter portion with the result that what remains will be the first portion alone. It is open to the Government to give effect to the intention of this House by moving a suitable amendment so that the original definition of 'old waste' may be removed. I therefore support the amendment."

* The hon. Sir ARCHIBALD CAMPBELL:—"Mr. President, on behalf of the Government, I am prepared to accept the amendment proposed by the Kumararaja of Venkatagiri. As regards the remarks made by my hon. Friend, Mr. Muniswami Nayudu, I may explain that the effect of this amendment, as he stated, is to leave the first portion of the definition of 'old waste.' At the third reading stage, we are permitted to make the consequential amendments as a result of the amendments passed in the second reading. We have not in the second reading deleted the definition of 'lanka,' but we shall be able to delete the whole of the definition of 'old waste' as a consequential amendment in the third reading."

Mr. P. PEDDIRAJU:—"May I suggest, Sir, that instead of this amendment, an amendment to omit clause (7) may be moved?"

* The hon. the PRESIDENT:—"I will put the amendment to the vote of the House. The question is:

'Omit sub-clause (ii) of clause (7) in section 3.'"

The amendment was carried.

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Clause 2 (7).

* The hon. Sir ARCHIBALD CAMPBELL:—"Sir, I do not propose to move amendment No. 22-A on the paper. I am prepared to move the deletion of clause (7) of section 3 of the Act."

* The hon. the PRESIDENT:—"The hon. Member may move his amendment."

* The hon. Sir ARCHIBALD CAMPBELL:—"Mr. President, with your permission, I beg to move the following amendment, which has been agreed to by all the parties in the House—

*'For the existing clause (6) substitute the following:—
"Clause (7) shall be omitted".'*

The hon. Diwan Bahadur S. KUMARASWAMI REDDIYAR:—"I second it."

The amendment was put and carried.

Clause 2 (7) (b).

* Diwan Bahadur A. APPADURAI PILLAI:—"Mr. President, Sir, I beg to move—

'Omit the letter and brackets (a), the word "and" occurring at the end of sub-clause (a) and sub-clause (b) of clause 10 of section 3.'

"This amendment relates to the definition of 'private land.'

"My reason for proposing this amendment is this: Yesterday, in regard to inams, the House decided that inams should be treated as estates, regardless of the fact whether melvaram interest alone, or both the melvaram and kudivaram interests vested in inamdars.

"The effect of that amendment is the position of an inamdar has been brought on a level with that of the other landholders. In view of this change, it seems unnecessary to perpetuate the difference between an inamdar holding both melvaram and kudivaram interest and one not holding kudivaram interest.

"Sir, the sub-clause may at first sight seem harmless, since the reference given in the margin of the draft shows that it is based on the exception to section 8 of the Act. With reference to this I would point out what the section says:

'Notwithstanding anything contained in this section, where before or after the commencement of this Act the kudivaram interest in any land comprised within an estate falling within clause (d) of sub-section (2) of section 3 has been or is acquired by an inamdar such land shall cease to be part of the estate.'

"While embodying this portion in sub-clause (b), the draft has gone far beyond the intention of that exception by introducing a proviso relating to the acquisition of such kudivaram interest by surrender, abandonment or sale for arrears and cultivation for a period of twelve years. All this would not avail in view of the amendment defining all inams as estates.

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“ In the clause (b) under consideration the difference between the kudiavaramdar and melvaramdar has been maintained unimpaired in spite of the fact that we have decided to do away with the difference between an inamdar holding these rights and one not holding such rights. If this position is conceded, there is no place for this clause.

“ There is no reason why an inamdar should be considered in any way different from other landholders. Under sub-clause (a) all land which is proved to have been cultivated by the landholder by his own servants or by hired labour with his own or hired stock, for a continuous period of twelve years immediately *before* the commencement of this Act becomes ‘ private land,’ whereas in the case of an inamdar a different treatment is proposed to be accorded. They are allowed continuous cultivation for a period of twelve years since the acquisition of the land. That makes a deal of difference. In fact it is now sought to maintain by this sub-clause the differential treatment accorded to the inamdars by the definition of ‘ estate ’ which was got rid of by the House yesterday.

“ Sir, the word ‘ landholder ’ has got to be defined in a single manner for the benefit of the public at large. In the Proprietary Estates Village Service Act an estate is defined as a permanently settled estate, a portion of such permanently settled estate, an inam village, etc., and a proprietor is defined as a person in whose name an estate is registered. If an inamdar becomes the proprietor of an estate he becomes entitled to all the privileges of a landholder under the Act of 1894 in the matter of nominating village officers, awarding punishments to them and the like. But this provision will place the inamdar in a better position than the holder of an estate. The necessity for sub-clause (b) has, therefore I submit, not been proved. My amendment is intended to do away with the differential treatment proposed to be meted out to this class of landholders. I therefore respectfully suggest that my amendment to omit sub-clause (b) of clause 10 of section 3 may be accepted.”

MR. T. SUNDARA RAO NAYUDU:—“ I second the amendment.”

* Diwan Bahadur Sir ALLADI KRISHNASWAMI AYYAR:—“ Mr. President, I do not want to speak on the merits of the clause. Inasmuch as there is some confusion as regards the relative provinces of this clause and the amendment in regard to inams which was passed yesterday, I just propose to say a few words. This clause does not hinge upon whether a particular inam is an estate or not. Even in regard to inams which were pakka estates under the old definition, this provision had application. The ambit of the class of inams coming under the Act has been now extended. Formerly only one particular class of inams was an estate within the meaning of the Act. Now, by the result of the voting yesterday, every species of inam has been converted into an estate. Assuming that a particular inam is an estate, what exactly is the effect of the acquisition of the kudiavaram by a person who is the proprietor of the estate is the meaning and intentment of this clause.

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It was felt then by the then legislature that distinction ought to be drawn between one class of estates and another class of estates, both being estates within the meaning of the Act. In regard to one class of estates, namely, permanently settled estates, surrender or abandonment or even cultivation by the holder, is not to take away the character of the estate. In regard to another class of estates, namely, inams which come within the definition as it stood before, it was felt on grounds of high policy as then understood, that they should cease to be part of the estate; in other words, that the inamdars, provided the requisites of that section are complied with, should be absolute owners of the property.

“ Now, Sir, we have heard so much about the value to be attached to decisions and so on. A Full Bench Decision of the Madras High Court held that even in regard to an inam which is an estate, according to the old definition, if there was a surrender or abandonment, henceforward the property should continue to be at the absolute disposal of the inamdar. In other words, it practically became the private land of the inamdar. That might be right or that might be wrong. Then, in the Committee, it was felt that you should not go so far as to say that by a mere process of surrender or abandonment, the inamdar's interests must be converted into what is in effect private land. He must have cultivated it for the requisite period. It was felt that some such restriction should be put on him, and that it was unnecessary to go to the full extent of the Full Bench Decision and say that by the mere fact of surrender or abandonment, the inamdar should have greater right. If surrender or abandonment is followed up by continued cultivation for the requisite period in the manner referred to in that section, he must have full rights. That is the import of the clause. I do not propose to speak on the merits of the clause. It is for the House to vote for or against the amendment after understanding the full import of the amendment. This has nothing to do with the definition of an estate. The definition of ‘ estate ’ has been extended by your including every class of inams. Even in regard to inams which are already estates, the proviso had application. The only question is whether you are going to retain this proviso or whether you are going to go back upon the decision of the Select Committee.”

* Rao Bahadur Sir A. P. PATRO :—“ Sir, with your leave, I propose to speak a few words on the merits of the amendment. Possibly, while I accept the legal position as stated by the hon. the Advocate-General, I would venture to submit to the House that this clause is an anomaly after the discussion that we had here yesterday. I would ask the leave of the House to refer to the definition as it stands in the present Act: ‘ private land ’ means domain or home-farm lands of a landholder by whatever designation known such as Pannai, etc. The definition here restricts ‘ private lands ’ to the domain or home-farm lands of the landholder by whatever designation known. Now the Government propose to amend the definition of ‘ private lands ’ to mean the domain or home-farm lands of a landholder by whatever designation known, etc. This is a new clause that has been introduced in the Bill.”

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Diwan Bahadur Sir ALLADI KRISHNASWAMI AYYAR:—“ This is a new clause reproducing the old clause. Originally it ceases to be part of an estate, and instead of saying it ceases to be part of an estate the present clause says it is part of the private land. Therefore by conceding the same rights as before by treating it as private land that object is effectuated. It is not right to say that it is a new amendment, whatever the merits or otherwise of it may be.”

* Rao Bahadur Sir A. P. PATRO:—“ That is neither here nor there. The explanation only makes matters worse. The definition of the existing clause is complete in itself. In the Bill a new clause is added and that new clause expands the right of the inamdar. That is the position I take up. You cannot get away from the fact that it is a new clause that is introduced, a clause which did not find place in the existing Act. You are creating a new right by virtue of this Bill which did not exist in the existing Act. That is my position. A new addition has been made to the already existing rights. By reading the clauses (a) and (b), hon. Members will find that a new interest is created by clause (b) in the inamdar and that with a view to see that it becomes his private land. Therefore I say this is opposed to the principle which this House has carried yesterday. In the Select Committee report it is stated ‘ all land in an estate within the meaning of sub-clause (d) of clause (2), the entire kudivaram interest in which has been acquired by the landholder before or after the commencement of this Act.’ That is how the amendment in the Select Committee stands. So according to the high policy which we are to pursue, if a kudivaram interest is purchased by an inamdar that land will be converted into a private land and you will be extending a right to him which he did not possess before and to-morrow the inamdars may circumvent this section by purchasing the kudivaram interest in another piece of land and thereby claiming the full right to call it a private land. Therefore it has been rightly moved that this clause be omitted.”

* Sriman M. G. PATNAIK Mahasaya:—“ Mr. President, Sir, we discussed yesterday the question whether an inam should be treated as an estate or not, and came to the conclusion that a whole inam village should be treated as an estate. If it is an estate, then there is no reason why an inam estate should be treated differently from any other estate. No doubt certain grounds were urged, that these inam estates are small estates, they are not like big impartible estates and all that. It is very often forgotten that these permanently settled estates also are very small estates—many of them consisting only of single villages, and on account of the partibility of the estates we find that a person may ultimately come to hold a few acres on account of partition in the family or alienation. An impartible estate may remain intact, but not so the estates which are partible, and I know of a case near Aska where in a small estate some 3 or 4 acres were sold for arrears of land revenue; what is the position of the man who purchased the small extent of land in a permanently settled estate. The position is that under section 38 of the

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Revenue Recovery Act, the Collector is bound to register him as a landholder and issue him a certificate, and so he will be registered as an estate holder of a small estate. If such persons cannot acquire occupancy rights and retain them in themselves for ever there is no reason why an inam-holder by acquiring occupancy right should retain it for ever. So far as the policy of the Madras Estates Land Act is concerned, one thing is clear: there is a clear prohibition against acquisition of occupancy rights permanently by any landholder. If occupancy right can be acquired by a landholder this danger will arise, namely, that all the lands of an estate may get into the possession of the landholder himself and all other people living in that locality will be his serfs and nothing more. It is on grounds of public policy that occupancy right cannot for ever be allowed to be acquired permanently by a landholder. That is the policy of the Act. If that is so, there is absolutely no reason why an inamdar should be able to retain the occupancy right for ever.

"The second point is that it is almost a misnomer to talk of private land in an inam estate. Yesterday I read an extract from a report that these lands were scattered throughout the estate and the zamindar used to get as remuneration one-tenth of the total collections. These inamdars had no lands themselves as such. But the inamdars were given lands mostly by the zamindars themselves; very few inams were granted by the Crown. Therefore to talk of private land in an estate is a misnomer. But we cannot lose sight of the fact that in the present Act a provision was made that when an occupancy right was acquired in an inam estate the occupancy right became merged in the inamdar. Why was that distinction made? All I can say is that it is a departure from the principles underlying the Act. It was made simply in response to the clamour of the inamdars who were very powerful in the former Council. Merger is not possible in the case of other estateholders. There is no reason why an inamdar should be allowed to have merger. You cannot say that these inam estates are very small in extent. In fact they cover a very large area in the Presidency, though they are not situated in one place. Secondly, even in the case of unsettled paliams or jaghirs, as was stated by Mr. Forbes, there are only one or two cases and such a concession was not granted. Why then was this concession allowed to the inamdars? It is a violation of principle which ought not to be allowed."

* Mr. T. C. SRINIVASA AYYANGAR:—"There seems to be a considerable amount of confusion in the minds of the people. Clause (b) deals with one set of private land. It deals with private land in those estates which are inams. It is wrong to say that the inams were brought under the category of estates only by this amending Act. Inams answering to the description in sub-clause (d) of sub-section (2) of section 3 of the existing Act were already under the category of estates. That is one class of inams. The other class of pre-settlement inams has been since brought under the definition of estate by the amendment carried yesterday. Clause (b) was inserted by the amendment made by the Select Committee, with a view to deal with private lands in that class

[Mr. T. C. Srinivasa Ayyangar] [3rd November 1933]

of estates which were already within the purview of the Act, that is, inams wherein the melvaram alone was conveyed in grant to one who did not own the kudivaram interest prior to the British Government. The necessity for this clause (b) is now all the greater when all the classes of inams are now brought under the Act. During the interval between 1908 when the old Act was passed and now very valuable rights have been acquired by parting with heavy sums of money. To them this proviso will not only apply but will be a safeguard. At the same time, the clause by a further proviso introduces a limitation. The cases of surrender or abandonment or sale for arrears of rent are placed in a different category. In all those cases, the implication is that it was previously in the enjoyment of a ryot holding lands in the inam. In such cases where a set of people apart from the inamdars were actually cultivating the soil, the stringent proviso has been introduced, by enacting that 'unless it is proved that twelve years previously there was continuous cultivation by an inamdar by hired labour or by himself.' So this clause has got an importance, has got a relevancy, and it does not become useless merely because yesterday the amendment has been carried; because even prior to the amendment there was a class of inams which were already in the Act with reference to which it was considered essential.

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"It will be applicable all the more to newer kind of inams which have been brought under an estate because during the 25 years since the original Act was passed very valuable rights have been acquired. I therefore oppose the amendment now sought to be introduced."

* The hon. Sir ARCHIBALD CAMPBELL:—"I understand that this is an amendment merely to carry out the decision which was arrived at in this House yesterday as a result of an agreement between the representatives of the ryots and those of the landlords. For that reason the Government accept the amendment."

* Mr. P. PEDDIRAJU:—"The hon. the Revenue Member was not able to understand the effect of this amendment or the new amendment proposed by Mr. Appadurai Pillai. I am sorry that the hon. the Revenue Member thinks that this amendment follows the decision of the House arrived at yesterday. Private lands have been defined even in the old Act. Now there are two additions to it, viz., clauses (a) and (b). So far as clause (a) is concerned it does benefit the zamindar to a great extent. Under the old Act of 1908, the zamindar had no power which is given to him under clause (a) now. This clause has been added to give effect to the prevailing feeling that there can be addition to the private land of a zamindar. Clause (a) says:

'(a) all land which is proved to have been cultivated as private land by the landholder himself, by his own servants or by hired labour with his own or hired stock for a continuous period of twelve years immediately before the commencement of this Act.'

and clause (b) says:

'(b) all lands in an estate within the meaning of sub-clause (d) of clause (2) the entire kudivaram interest in which has been acquired by the landholder before or after the commencement of this Act provided

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that where such interest is acquired by surrender or abandonment of the land by the ryot or by purchase at a sale for arrears of rent the land is proved to have been cultivated as private land by the landholder himself, by his own servants or by hired labour with his own or hired stock for a continuous period of twelve years since the acquisition of the land.'

Diwan Bahadur Sir ALLADI KRISHNASWAMI AYYAR:—"The present clause (a) is already there in the original Act in the form of section 185."

Mr. P. PEDDIRAJU:—"At the end of section 8 of the old Act there is an exception which says:

'Notwithstanding anything contained in this section where before or after the commencement of this Act, the kudivaram interest in any land comprised in an estate falling within clause (d) of sub-section (2) of section 3 has been or is acquired by the inamdar, such land shall cease to be part of the estate.'

"Sir, that exception has been removed from that place and added on here at the end of the definition of 'private land.' Instead of saying that the land ceases to be part of the estate they now say that it forms part of the 'private land.' A further proviso has been added which reads:

'Provided that the surrender or abandonment of land by a ryot shall not unless followed by continuous possession for a period of twelve years have the effect of vesting the kudivaram interest in the land in the inamdar.'

"Therefore I ask the House to consider what will be the condition of some people who have purchased lands recently. I put a concrete instance where certain inamdar has got his kudivaram rights and a number of people have purchased an acre or two each from him. What will be the condition of these people who have purchased one or two acres for Rs. 2,000 or Rs. 3,000. A man who cultivates the land is entitled to occupancy rights: simply because he squats on the land for a period of one year you are going to confiscate the lands from those people who have spent a large amount in purchasing them. Perhaps the idea is to oppress the Brahman aghaharamdars. I appeal to the House to seriously consider the effect that this amendment would have on a large number of people who have spent thousands of rupees in purchasing a few acres. They will now be told that their lands are not private lands but belong to those who actually cultivated them for a day or two. There is also another proviso now added to section 8 which reads:

'Provided that nothing in this sub-section shall be deemed to apply to land in an inam village which becomes private land within the meaning of sub-clause (b) of clause (1) of section 3.'

"That means you will place the landholder of the estate and also the inamdar who owns one or two acres of lands in the same category.

"Sir, if this amendment is allowed then there will be a consequential amendment in sub-clause (4) again. So I appeal to hon. Members of this House to see the consequences that will emanate from this. What will be the condition of the ordinary people who have invested large sums of money to purchase small pieces of land from

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inamdars when occupancy rights are going to be given to the ryots? That is the position. If Government think that this amendment has been moved as a result of the general proposition that was agreed upon yesterday it would be a mistake on their part."

Mr. T. SUNDARA RAO NAYUDU:—"I move that the question be now put."

Mr. R. MADANAGOPAL NAYUDU:—"I second it."

The motion was put and carried.

The amendment was put and declared carried.

A poll was demanded and the House divided thus:

Ayes.

- | | |
|--|---|
| 1 The hon. Khan Bahadur Sir Mahmud Usman. | 30 " G. Lakshmana Reddi. |
| 2 " Diwan Bahadur Sir M. Krishnan Nayar. | 31 Rao Sahib V. Dharmalingam Pillai. |
| 3 " Sir Archibald Campbell. | 32 The Kumararaja of Venkatagiri. |
| 4 " Mr. H. G. Stokes. | 33 The Raja of Khallikote. |
| 5 " Diwan Bahadur S. Kumaraswami Reddiyar. | 34 The Zamindar of Mirzapuram. |
| 6 " Mr. P. T. Rajan. | 35 Mr. M. A. Muthiah Chettiyar. |
| 7 " the Raja of Bobbili. | 36 " Daniel Thomas. |
| 8 Rao Bahadur G. Jagannatha Raju. | 37 " H. M. Jagannatham. |
| 9 Mrs. K. Alamelumangathayaramma. | 38 Rao Sahib P. Subrahmanya Chetti. |
| 10 Rao Bahadur V. N. Viswanatha Rao. | 39 " C. Jayaram Nayudu. |
| 11 Mr. J. A. Thorne. | 40 Diwan Bahadur A. Appadurai Pillai. |
| 12 " H. M. Hood. | 41 Rao Sahib D. V. Narasimhaswami. |
| 13 Diwan Bahadur N. Gopalaswami Ayyangar. | 42 Mr. K. Kesavaramamurti Nayudu. |
| 14 Mr. R. Madanagopal Nayudu. | 43 S. M. K. Beyabani Sahib Bahadur. |
| 15 " E. Conran Smith. | 44 Mr. A. Ramakrishna Reddi. |
| 16 " T. Sundara Rao Nayudu. | 45 " Sami Venkatachalam Chetti. |
| 17 Khan Sahib Syed Tajuddin Sahib Bahadur. | 46 Diwan Bahadur B. Muniswami Nayudu. |
| 18 Subadar-Major S. A. Nanjappa Bahadur. | 47 Mr. K. P. Raman Menon. |
| 19 Rao Bahadur R. Srinivasan. | 48 " M. S. Sreshta. |
| 20 Rao Sahib V. I. Muniswami Pillai. | 49 " P. V. Krishnappa Choudari. |
| 21 Mr. M. Vedachala Mudaliyar. | 50 Sriraman M. G. Patnaik Mahasayo. |
| 22 " B. P. Sesha Reddi. | 51 Mr. C. Indrayya. |
| 23 " G. Sriramulu. | 52 " J. Kuppuswami Choudari. |
| 24 " P. C. Moses. | 53 Mahboob Ali Baig Sahib Bahadur. |
| 25 " P. V. Rajagopala Pillai. | 54 Mr. G. R. Premayya. |
| 26 " V. G. Vasudeva Pillai. | 55 " K. Pattabhiramayya. |
| 27 Khan Bahadur Yahya Ali Sahib Bahadur. | 56 Rao Bahadur R. K. Venugopal Nayudu. |
| 28 " T. M. Moidoo Sahib Bahadur. | 57 Mr. C. R. Parthasarathi Ayyangar. |
| 29 Mr. P. K. Ramachandra Padayachi. | 58 Rao Bahadur Sir A. P. Patro. |
| | 59 " C. Natesa Mudaliyar. |
| | 60 The Maharaja of Venkatagiri. |
| | 61 Mr. C. Basu Dev. |
| | 62 " R. M. Palat. |
| | 63 " R. Foulkes. |
| | 64 " V. P. Narayanan Nambiyar. |
| | 65 Rao Bahadur T. M. Narayana-swami Pillai. |

Noes.

- | | |
|-----------------------------------|---|
| 1 Mr. K. R. Venkatarama Ayyar. | 6 B. Pocker Sahib Bahadur. |
| 2 " T. C. Srinivasa Ayyangar. | 7 Mr. Abdul Hameed Khan. |
| 3 " A. P. N. V. Nadimuthu Pillai. | 8 " P. Peddiraju. |
| 4 " T. S. Ramaswami Ayyar. | 9 Moulvi Hafeez Annumanthakudi Mustapha Ahmed Meeran. |
| 5 " V. T. Arasu. | |

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Neutral.

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| 1 Diwan Bahadur Sir Alladi Krishnaswami Ayyar.
2 Dr. P. Subbarayan.
3 Rao Bahadur T. A. Ramalingam Chettiar. |

 | 4 Mr. A. B. Shetty.
5 „ Muhammad Meera Ravuttar.
6 „ K. A. Nachiyappa Gounder.
7 The Pattagar of Palayakottai. |
|--|-----------|---|

Ayes. 65. Noes. 9. Neutral. 7.

The amendment was carried.

The House then adjourned for lunch.

After Lunch (3 p.m.)

Clause 2 (8).

Section 3 (11).

* **Sriman M. G. PATNAIK** Mahasaya:—“ Mr. President, Sir, I beg to move the following amendment:—

‘Substitute the following for the first paragraph of clause 2 (8) of the Bill and section 3 (11) of the Act:—

“Rent” means whatever is lawfully payable in money or in kind or in both to a landholder by a ryot for the use or occupation of land for the purpose of agriculture and includes whatever is lawfully payable on account of enjoyment of water supplied by the landholder or taken for raising crops.”

“This amendment relates to the question of water-cess. The original clause in the Bill as amended by the Select Committee postulates that water should be taken with the permission of the landholder. I know of cases where the zamindar refused to permit water being taken for second crops even though plenty of water was available. It is a well-known fact that these water-sources are held in trust by the zamindars for the benefit of the ryots. The zamindars think that they have proprietary rights in these water-sources and that they can sell the water to whomsoever they liked. In many places it is very difficult for the ryots to raise second crops because the zamindars refuse to supply water. Of course, I do not say that there should be no control over the use of water from these sources. There must be some control. Also if there is any dispute, there must be somebody to settle it and that somebody should be the Collector. It will be a hardship if water-cess is charged merely when the ryot takes water for mere cultivation. For the second crop may fail for want of sufficient water-supply or for various other reasons and then the ryot will be put to a great loss. A second crop cannot be raised always and on all lands, and it is only when a second crop is raised that water-cess is payable. What I want to suggest in this amendment is that water-cess should be charged only when the ryot takes water and actually raises a second crop and no water-cess should be charged merely because the ryot takes water irrespective of whether he is able to raise a second crop or not. It is with that object that I have moved this amendment.”

Diwan Bahadur B. MUNISWAMI NAYUDU:—“ I second it.”

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* The hon. Sir ARCHIBALD CAMPBELL:—"Mr. President, I am afraid I cannot accept this amendment. I cannot really see how it would carry into effect the object which the hon. Member has in view. This is purely a definition and does not confer any powers on anyone to take water or prevent anyone from taking water if the law entitles him to do so. Nor does it empower the zamindar to charge for water if he is not entitled to do so, for the word 'lawfully' occurs in the definition. The zamindar cannot include in his demand for rent any charge which he cannot lawfully make. Therefore I submit that the amendment is unnecessary and cannot be accepted by the Government."

* Sriman M. G. PATNAIK Mahasayo:—"Sir, I submit that it will be unjust to charge water-cess when a man merely takes water even though he is not able to raise a crop. The definition in the Bill contains the phrase 'for cultivation of land' and does not refer to the actual raising of a crop. For mere cultivation of land, are you going to charge water-cess? Should he not be able to raise a crop? Suppose for instance there is only a small quantity of water in the tank. The ryot is supplied water only once when he begins his cultivation and he does not get a subsequent supply and thereby is not able to raise a crop: is it fair to charge water-cess in that case even though he is not able to raise a crop? That will be the effect of the definition as it stands and it is why I want to amend it."

* Sir ALLADI KRISHNASWAMI AYYAR:—"Mr. President, I think there is some misapprehension behind this amendment. In the first place, this is merely a definition and does not purport to confer any special rights. It only postulates that in cases where water-cess is lawfully payable, it shall be included in the rent. Whether in any particular case water-cess is payable or not is a matter to be determined by the court. What this definition says is that if the cess is lawfully payable, then it is rent within the meaning of this Act. Whatever is lawfully payable for the water supplied by the landholder or whatever compensation is payable for water taken without his permission—these two items mean rent for the purposes of the Act and the summary provisions of the Act can be applied for their recovery. More than that, it does not purport to confer any special right on anybody."

* Rao Bahadur Sir A. P. PATRO:—"Sir, I agree with the hon. Member, Mr. Patnaik Mahasayo, and I also entertain the same apprehension. Suppose the zamindar refuses to give water even for the first crop, what can the ryot do then? Of course the definition is not the operative portion of the enactment; it is only a definition and if the hon. Member wants to refer to the rights of landlords and tenants in the matter of water-supply, he should give notice of amendments separately. But the definition as it stands raises a doubt in my mind as to whether the ryot will get a right for water-supply for second-crop purposes. That is a doubt which I hope the hon. the Advocate-General will clear up. The definition in the Bill speaks of 'whatever

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is lawfully payable on account of water supplied by the landholder.' Water supplied for what purpose?"

* Diwan Bahadur Sir ALLADI KRISHNASWAMI AYYAR:—"For the cultivation of land."

* Rao Bahadur Sir A. P. PATRO:—"Is it cultivation of wet land or land other than wet land? What is it?"

* Diwan Bahadur Sir ALLADI KRISHNASWAMI AYYAR:—"If a particular land is already wet land there is no question of water-cess at all because it has already entered into the computation of rent. It is only when water-cess has not entered into the computation of rent, that is to say, when the land is classed as dry land and when the ryot takes water, that any question of water-cess as water-cess is possible. Rent is whatever is lawfully payable. It all depends on the tenure of the land in question. Suppose it is a single crop land and the ryot takes water for a second crop, he has no right to take water for second crop and therefore he has to pay compensation to the landholder in the shape of water-cess. That water-cess which is lawfully payable will be rent within the meaning of the definition."

* Rao Bahadur Sir A. P. PATRO:—"I question the very premises of the hon. the Advocate-General, namely, that the ryot has no right to take water from the water-source in his holding for the purpose of raising a second crop."

* Diwan Bahadur Sir ALLADI KRISHNASWAMI AYYAR:—"It all depends on the nature of the settlement in the particular zamindari area in question. If the land is classed as a double-crop land and the rent has been settled on that basis, there is no question of any water-cess being payable for the second crop. If on the other hand the land has been classed as single-crop wet land, and if in any year there is a large amount of water in the tank and the cultivator takes the water for a second crop with or without reference to the landholder, then the cultivator is liable to pay water-cess. This is exactly similar to the practice obtaining in Government tracts where you have single and double crop lands. Whether in a particular case, it is a single or double crop land, will depend on the nature of the settlement in the particular zamindari and the relation between the zamindar and the cultivators. This definition does not and cannot interfere with the relation between the landholder and the ryot in any particular zamindari."

* Rao Bahadur Sir A. P. PATRO:—"I quite appreciate the Advocate-General's argument on the analogy of pattadars in Government land. Of course, in the case of pattadars of single-crop lands, if a pattadar does not apply for water for second crop and if he takes water without permission, he will have to pay a penalty. But the very premises of the argument of the Advocate-General, I am now questioning. In the case of permanently settled estates, if the irrigation sources do not belong exclusively to the landholders in some cases,

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what is the position? The ryot is the co-owner of the lands and in such a case when he takes water from an irrigation source in which he has got the right of kudivaram, for the first or second crop, what will be the position of the ryot? This definition does not make the matter clear and that is my difficulty.

3-15 p.m. "In the case of zamindaris, the irrigation sources were made by him. The irrigation source is therefore not the joint property and the tenant has got right to take water. I can understand your saying that the tenant must have the permission of the zamindar to take water. He must take permission. But what about the payment of water-rate for the second crop? The definition does not make it clear. I wish the hon. Member would explain."

* The hon. Sir ARCHIBALD CAMPBELL:—"Sir, since 1908, as far as I know, no difficulty has arisen in consequence of the present definition. It is untouched so far the particular point referred to by the hon. Member is concerned except that we have inserted the word 'lawfully.' It makes it clear that, if the tenant is entitled to water free of charge, no charge can be made for that water. The wording of the existing provision is: "'Rent' means whatever is lawfully payable in money or in kind or in both to a landholder by a ryot for the use of occupation of land for the purpose of agriculture and includes whatever is lawfully payable on account of water supplied by the landholder or taken without his permission for cultivation of land where the charge for water has not been consolidated with the charge for the use or occupation of the land'."

"I think it is to the interest of the ryot to exclude from the rent anything which cannot be lawfully charged as water-cess."

* Rao Bahadur Sir A. P. PATRO:—"I can understand the position when it is said that, if an irrigation source has been maintained or repaired by the zamindar at his cost and if the tenant wants to take water for second crop, the zamindar has got the right to charge for that water. But if the irrigation source has been in existence from the time of the permanent settlement and if it has not been kept properly by him and if no improvements have been carried out, what is to be the position?"

* The hon. Sir ARCHIBALD CAMPBELL:—"The courts will decide whether the rent charged is lawful rent or not. We have therefore inserted the word 'lawfully'."

The amendment was put and lost.

Section 3 (11).

* Sriman M. G. PATNAIK Mahasayo:—"Sir, I do not move the first part of my amendment. I move the following amendment:—

'Substitute for the words "*has not been consolidated*" the following in sub-clause (8):—

"*is not proved by the landholder to have been consolidated*".'

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“The wording of the clause as amended by the Select Committee is: ‘where the charge for water has not been consolidated with the charge for the use or occupation of the land.’ The question whether it is consolidated or not has to be proved and the question is by whom it is to be proved. If the zamindar claims water-cess, he has to prove the fact. The ryot cannot prove it because he does not have any record. It is the zamindar that will have all the records. The burden of proof must therefore be on the zamindar.”

Mr. ABDUL HAMEED KHAN:—“I second it.”

* The hon. Sir ARCHIBALD CAMPBELL:—“I am afraid I am not prepared to accept it. If the charge for water has not been consolidated with the charge for the use or occupation of the land, the zamindar can levy the charge. It seems to me that it is in the interest of the tenant himself that this charge should be dealt with under this Act. It is much better to leave the section as it is.”

The amendment was put and lost.

Section 3 (11).

* Sriman M. G. PATNAIK Mahasayo:—“Sir, I move the following amendment:—

‘Add the following to clause 2 (8) of the Bill:—

“Provided (1) that the landholder proves that for the particular crop raised with the water supplied or taken from the irrigation source within whose ayacut the land is situate, or from the particular source of irrigation from which the water so supplied or taken, the ryot was not entitled to take water and that at the time water was available in the source of irrigation from which the ryot was entitled to take water for the irrigation of the particular crop or land; (2) that rent for the particular land is not payable in kind.”

Here are three points. (1) Rent for the particular land is not paid in kind. It is not necessary that the zamindar should go to a court of law to establish this right. It is only when the question comes up before a court of law, the burden of proof should be on the zamindar. A ryot is entitled to take water for his land for a particular crop from a particular source of irrigation. There may not be water in that source of irrigation; there may be water available in another source. Therefore he may take water from the other source of irrigation. It must be proved by the zamindar that the ryot is not entitled to take water for that particular crop.

“The other condition is that rent for the particular land is not payable in kind. That is a very important thing. Because, if water is taken and the crop is grown with that water, where rent is payable

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in kind, both the landholder and the ryot are benefited. The zamindar is benefited in this way; he gets larger amount of rent as rent in kind. Therefore water-cess should not be charged in that case."

Mr. M. A. MANIKKAVELU NAYAKAR:—"I second it."

* The hon. Sir ARCHIBALD CAMPBELL:—"Mr. President, Sir, these two provisos, as worded, should, I presume, come earlier in the section. They are intended to apply to the definition of rent which includes water-cess under that head."

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"I confess I find it very difficult to follow what the intention or the effect of the hon. Member's first amendment is. After all, all that we are concerned with here is the definition of 'rent' not a substantive provision of law. I submit that this proviso should not be added."

"The second proviso again relates to the payment of rent in kind; but all this is covered by the question whether the amount is 'lawfully payable' or not. I may point out that they are very important words—'lawfully payable.' I therefore submit that these two provisos are not necessary."

* Sriman M. G. PATNAIK Mahasayo:—"Sir, these provisos go to define the word 'lawfully' to some extent and therefore they are necessary here. The hon. the Revenue Member did not meet the other point. I said when rent in kind is taken, is not the landholder also benefited *pro tanto*; therefore, why should he charge a further water cess? That matter remains unanswered by the hon. the Revenue Member."

The amendment was put and lost.

* The hon. the PRESIDENT:—"The next amendment^a is outside the scope of the Bill."

Sriman M. G. PATNAIK Mahasayo:—"Here also, Sir, the words 'lawfully payable' come in. Therefore, the amendment is not outside the scope of the Bill."

* The hon. the PRESIDENT:—"This amendment introduces a new provision with regard to water-cess and other things and therefore I hold it is not in order."

Clause 2 (8).

Section 3 (11).

* Sriman M. G. PATNAIK Mahasayo:—"I move to—

'Omit in sub-clause (8) of the Bill the figures 27, 28, 165, and insert the figures and letter "168 to 172" between the figures "165" and "210".'

^a Add the following to clause 2 (8) of the Bill:—

"Provided that in no case the rate for water claimed shall exceed the rate of water-cess charged for the time being by Government for similar crops with water from similar sources of irrigation in ryotwari tracts in the revenue division in which the ryoti land concerned is situate."

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"In moving this amendment, I have actually in mind a particular case that happened. Section 165 refers to the preparation of record of rights, and in the record of rights, the rent payable is to be mentioned. Then the 'settled rent' comes under sections 168 to 172. So far as that is concerned, the figures are not to be found in the Bill. What generally happens is that even after the rent is settled, supposing on account of some local usage some cess is payable to a zamindar or landholder, he may claim that amount on the ground that that question was not considered in the settlement proceedings. It is very doubtful whether the settlement officer will decide whether it is to be treated as rent or not, because sections 168 to 172 are not referred to here. Therefore I submit those figures should be introduced here."

Mr. P. V. KRISHNAYYA CHoudari seconded the motion.

Mr. R. MADANAGOPAL NAYUDU:—"Sir, I only wish to draw the attention of the House to a small absurdity in the amendment which my friend has moved. He wants '27, 28 and 165' to be omitted; and I cannot see how he can ask for the insertion of '168 to 172' between the figures '165' and '210.' If the former portion of the amendment is accepted, '165' would naturally go out. Therefore, the amendment as it is, does not seem to be correct."

* The hon. Sir ARCHIBALD CAMPBELL:—"Mr. President, Sir, section 27 lays down that the rent paid in the preceding revenue year shall be presumed to be the rent for the current year until the contrary is proved. I cannot see why that should not apply to the local cesses also. Section 28 says that 'In all proceedings under this Act the rent or rate of rent for the time being lawfully payable by a ryot shall be presumed to be fair and equitable until the contrary is proved.' There again I am unable to see why this section should not be included. The hon. Member who moved the motion for the deletion of '27' and '28' has not given any reason for that. Again, section 16 contains the particulars to be recorded in the record of rights, and mention is made there of the rent 'lawfully payable' at the time the record is being prepared and how the rent has been fixed, whether by decree or under the provisions of this Act, or otherwise; it also includes 'if the rent is gradually increasing rent, the times at which and steps by which it increases:' again, 'if the land is claimed to be held free of rent, whether rent is actually paid or not.' It is very desirable that all these particulars should be mentioned in the record of rights, in addition to the ordinary rent of the land. Apart from this, as has been pointed out by the hon. Member who preceded me, the amendment in its latter part does not fit in well with the former."

* Diwan Bahadur B. MUNISWAMI NAYUDU:—"May I point out, Sir, that the object of my friend's amendment is: when a settlement is ordered under sections 168 to 172, the settlement officer is directed to fix the rent. Section 168 says that if the ryot or the landholder should apply for a settlement, the settlement officer shall settle a fair and

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equitable rent in respect of the land situated in such village or area. Now, 'rent' is defined in the definition as meaning 'what is payable.' And for certain sections, the definition of 'rent' is expanded by the inclusion of local cesses and other things. What my friend wants to know is: when a settlement of rent is being made, why should not the settlement officer, for the purpose of fixing the future rent, take the local cesses and other dues payable also into consideration and consolidate them and fix for the future a definite rent? He is having in his mind the idea that there are certain mirases; like the temple mirases, payable, apart from the statutory cess, the local board cess, etc. Now, when under section 168 rent is fixed, thereafter at least my friend wants that what the ryot has to pay should be a definite amount excluding the various cesses which are not well-defined or which might be included by the courts. The object of this amendment is this: when you extend the definition of rent in certain sections, why not also include sections 168 to 172 in that extension, so that when the settlement officer fixes the rent, he may fix it once for all and from that date afterwards at least there may be no question of other cesses being paid? There are the cesses payable under the Local Boards Act or the Municipalities Act, but they are all coming under different statutes; but where cesses are not payable under statutes, they at least might be included for consideration at the time of the settlement of rent. The object of this amendment is simply to see that the settlement officer takes into account these cesses—apart from the statutory cesses—and fixes a definite rent once for all. My friend has got in his mind a case where after the settlement of rent has taken place, the landholder may demand the other 'mirases' or other cesses that are now being paid. He only wants these 'mirases' also to be included. I would request the hon. the Revenue Member to consider the question as to what extent these sections, 168 to 172, may not be included in the explanation."

* The hon. Sir ARCHIBALD CAMPBELL:—"I do not think, Sir, we can include in the settlement of rents the local taxes or cesses mentioned in the other Acts such as the Local Boards Act although the local tax which is payable to the local boards can be collected as rent by the landowner. If we now include that for the purposes of sections 168 to 172, it would mean that local taxes would be fixed by the settlement of rent and could not be altered afterwards except under this Act."

* Diwan Bahadur B. MUNISWAMI NAYUDU:—"May I point out that the definition of 'rent' given here is:—

'Any local tax, cess, fee or sum lawfully payable to a landholder by a ryot as such in addition to the rent due according to law or usage having the force of law.'

This local tax may be paid either because it is prescribed by a particular law or because of the usage. I quite appreciate the difficulty of the hon. the Revenue Member that the settlement officer should

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not be authorized to include the statutory cesses. But what about those cesses, taxes or fees not coming within any Act, which are authorized by usage having the force of law and not by a law such as the Local Boards Act? Such at least as are payable according to 'usage having the force of law' can be included, I think."

* Diwan Bahadur Sir ALLADI KRISHNASWAMI AYYAR:—"The object which my friend Mr. Muniswami Nayudu has in view cannot be attained by merely changing the version in the Bill. You must first provide in the settlement chapter that the officer could go into the question of fees. Then you can make a provision here to the effect that any sum which is so determined as per the Settlement Chapter shall be 'rent.' As it is to include sections 168 to 172 here will lead to difficulty; because at any rate so far as local tax is concerned, it cannot be a subject of settlement. The only thing that can be included as within the province of the settlement officer is a fee. If you make appropriate changes in the Settlement Chapter to the effect that fee can be included in the settlement, then you can make changes here so far as that particular figure is concerned. As it is, I do not think it will be right to include sections 168 to 172 within the scope of this definition. That is what I think."

* Sriman M. G. PATNAIK Mahasayo:—"Even as it stands, how can the amounts payable under any enactment be recorded in the record of rights prepared under section 165? There is some absurdity about this clause, there is no doubt about that. There are various cesses; and how can you record them all under section 165?"

* Diwan Bahadur Sir ALLADI KRISHNASWAMI AYYAR:—"Record for the time being is one thing; settlement for a particular period is quite another thing. The record is of an existing fact; settlement is a binding arrangement between two parties. In one case it creates rights and obligations. The local cess is imposed by statute and therefore it can create a right or liability. Whereas in the case of record, it merely states a fact that for the time being a particular amount or other is payable. That is the distinction between a record and a settlement." 3-45 P.M.

* Sriman M. G. PATNAIK MAHASAYO:—"Therefore I say that a separate clause may be introduced to include cesses payable under the statute. That is what is stated here also, i.e., 'moneys recoverable under any enactment . . . rent.' This can be cut up into two clauses, and there is no difficulty. What is payable by virtue of local usage is not stated, and any demand can be made. There will thus be no end to litigation. And as a matter of fact such litigation is going on. Unless we take care now and amend it, it will give room for future litigation also."

The amendment was put and lost.

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Clause 2 (8) (a).

* Sriman M. G. PATNAIK Mahasayo:—"Sir, I move—
that in sub-clause (a) of sub-clause (8) the following be omitted:—"or usage having the force of law".

"In the definition of rent the words 'whatever is lawfully payable' are used. Therefore I do not see any necessity for the words 'usage having the force of law' because this is already included in the words 'lawfully payable.' Therefore these words 'usage having the force of law' are redundant and misleading and can be cut out."

Mr. P. V. KRISHNAYYA CHoudari seconded the motion.

* The hon. Sir ARCHIBALD CAMPBELL:—"Mr. President, Sir, these words occur in the present Act and, as far as I know no difficulty has been experienced on account of these words. So, as far as I can see, there is no necessity for this proposed deletion."

* Mr. T. C. SRINIVASA AYYANGAR:—"This expression 'usage having the force of law' is used in clause (a) which deals with local tax, cess, fee or sum lawfully payable to a landholder by a ryot as such in addition to the rent due according to law or usage having the force of law. Particularly in zamindaris where the custom of sharing produce exists, for the purpose of safeguarding the interests of both the landlords and the tenants, certain fees are by usage payable to cover the cost of supervising the harvest. One such instance, in the zamindaris south of Madras, can easily come within the recollection of hon. Members. The fee known as kanganam which is really a fee for supervision, has been held by the courts to be payable as per usage having the force of law. The deletion of these words may lead to difficulties of an unforeseen character and I do not see why they ought to be omitted. There is no case of redundancy. It is only a case of abundant caution in a matter which really requires amplification so as to avoid any difficulty."

The amendment was, by leave, withdrawn.

Clause 2 (8) (b).

* Sriman M. G. PATNAIK Mahasayo:—"Sir, I move—
that sub-clause (b) of sub-clause (8) be omitted.

"This sub-clause deals with pasture fees and fishery rents. It is really very difficult for me to understand what fishery rents are. Because if there is a tank, the man takes a lease, licence or obtains permission to catch fish therein at a particular time. Is such a man a ryot? Is he bound to pay 'rent'? And how such an amount can be treated as rent at all I do not see. And the man may have no lands at all in that village. Even if a hundred people may take a lease for fishing, why should it be treated as rent and why should this be recovered through the Revenue court? That depends upon the contract entered into between the person fishing and the man who gives him the licence and the amount of fee is fixed from time to time by contract. Therefore in such a case there is absolutely no reason why the civil court

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should not have jurisdiction in the matter of recovering such fee. Why should the Revenue court have jurisdiction over it? And what resemblance has it got to rent payable by a ryot I do not see.

"So far as pasture lands are concerned, this has been held to be not an agricultural purpose and therefore the ryot has got no occupancy right over it. Therefore there is no reason why the zamindar should have the right of recovering such fees by distraint or under the summary procedure provided in the Act, instead of going to the civil court. If the zamindar wants to have the right, he should also be subjected to liabilities and that is but proper. If he is not going to be subjected to liabilities, he need not be allowed to have all the advantages of recovering the fee which he may fix at any amount he likes. Therefore, so far as pasture fees are concerned, there is absolutely no provision by which it can be fixed except at the will of the zamindar. It has only to be fixed by agreement. So it has no resemblance to rent or water-cress at all which cannot exceed a certain amount. So far as fishery rent or pasture rent is concerned, the zamindar can fix them as high as he pleases by contract. I therefore move for the omission of this sub-clause, as these rents can be recovered by the civil courts."

Mr. P. V. KRISHNAYYA CHOUDARI seconded the motion.

* The hon. Sir ARCHIBALD CAMPBELL:—"Mr. President, Sir, this is really an amendment of the existing Act. I understand that the hon. Member wants to remove both fishery rents and pasturage fees from the scope of the Act. But both pasturage fees and fishery rents are mentioned in the existing Act and the present Bill makes no variation in that respect. When the hon. Member proposes to alter the existing law which has been in force since 1908, that is to say, for over a quarter of a century, one might expect him to support his case by some instances where the present law has caused hardship either to the ryots or to the landholders. But he has not mentioned any such cases and it seems to me that it is in the interests of the ryot to have only one court to deal with the claims of the landholder as against him. The ryot is defined as a person who holds for the purpose of agriculture ryoti land in an estate on condition of paying to the landholder the rent which is legally due upon it. The fishery rents and pasturage fees mentioned here are only those payable by a ryot as such. The section does not apply to fishermen who are not ryots. In the case of fishermen, questions relating to rent for fisheries are to be decided by the civil courts. For these reasons, I oppose the amendment."

* Sriman M. G. PATNAIK Mahasayo:—"I cannot understand the expression 'payable by a ryot as such' because it is meaningless. No ryot has got occupancy right in a tank. That expression is therefore meaningless. What interest the ryot has in the fishery I do not understand. A pattadar in a village must be a ryot, and I cannot understand why he should have anything to do with fishery rights. The hon. the Revenue Member says that it is sanctified by 25 years of working and it

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has been there for the last quarter of a century without giving rise to difficulties. But I say that no ryot can have occupancy right in a tank for fishing."

* Mr. T. C. SRINIVASA AYYANGAR:—"I do not want to interfere in a matter with which my Friend, Mr. Patnaik, may be quite familiar. But I just want to say that instances may be familiar to the hon. Members and the Revenue Member also, showing how fishery rent can come to be associated with the rent proper payable by a ryot. In the Sivaganga zamindari oftentimes troubles arose over the lease of fisheries in irrigation tanks maintained by the estate. Experience has taught the prudence of averaging the fishery income for a number of years and dividing it among the wet rent of the pattadars having irrigated wet lands in their holdings, at so much per acre. These people fish in the tank in common and divide the fish among themselves and make their own arrangements for that. And the small bits of the amounts included in the pattas of the various ryots are collected along with the regular rent. This is known by name of Pasivari. There is nothing inconvenient about it. Most of the landholders with a view to avoid the possibility of litigation have got into this habit of including it in the rent. And this is working very satisfactorily there, and there is nothing inconceivable in the idea of fishery rent."

The amendment was put and lost.

* The hon. the PRESIDENT:—"The hon. Member, Mr. Sami Venkatachalam Chetti, can move only the former part of the amendment No. 38^a and not the latter part."

MR. SAMI VENKATACHALAM CHETTI:—"It was agreed, Sir, that some amendments bearing upon the questions which I raised would be admitted for discussion."

* The hon. the PRESIDENT:—"But it cannot be incorporated in the Act. That is the difficulty."

The amendment was accordingly not moved.

Clause 2 (8) (b).

* Sriman M. G. PATNAIK Mahasayo:—"Sir, I move that the following be added to clause 2 (8):—

Explanation.—"Purpose of agriculture" or "agricultural purpose" includes the use of land as a yard for ploughing cattle or as a habitation for agriculturists or as pasture for ploughing cattle or for the purpose of storing manure or growing plants to be used as manure for agriculture."

* Mr. SAMI VENKATACHALAM CHETTI:—

38 Add after the words 'fishery rents' in clause (b), the words 'in reserved forests and in tanks maintained by the landholder.'

Add the following as a separate paragraph:—

"No rent shall be collected from a land which has been affected by unfavourable seasons and whose yield is less than four annas crop, in that year."

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“ This only relates to the definition of ‘ agricultural purpose ’ or ‘ purpose of agriculture. ’ Now what happens is this. There is no definition in the Act of what an agricultural purpose is. Therefore it is necessary that there should be a definition. The definition I have given here is taken from the judgment of Justice Bhashyam Ayyangar in 24 Madras, 421. The advantage of this is that even with regard to threshing floors, the ryots would get occupancy rights because that is also an agricultural purpose, and they pay rent to the zamindar and they can hold it as a ryoti land. They cannot be turned out of it. It includes the use of land as a yard for ploughing cattle or as a habitation for agriculturists or as pasture for ploughing cattle or for the purpose of storing manure or growing plants to be used as manure for agriculture. The ryot cannot have these things now. He can be turned out. But if in ‘ agricultural purpose ’ these are also included they cannot be turned out of these lands. So I say this amendment should be passed. The use of the word as it stands is very loose. If the cattle-stand in a poramboke land, the zamindar will say that the cattle should not stand there. Then there is the question of habitation for agriculturists. In certain cases, the building of houses on holdings is considered objectionable, as doing material damage to the land. In such cases, the ryot is liable to be ejected from the land. No doubt the courts can interfere. As a matter of fact, the question is decided whether construction of a building means material damage to the holding or not. Still it is not made very clear whether the man should have a house for the purpose of storing manure and such other purposes. It is therefore necessary that the word should be defined as stated.” 4 p.m.

Mr. P. V. KRISHNAYYA CHODARI:—“ I second it.”

* Diwan Bahadur Sir ALLADI KRISHNASWAMI AYYAR:—“ Mr. President, Sir, I think this explanation is uncalled for. Whatever is auxilliary to agriculture, is an agricultural purpose. Agriculture need not be the subject of a specific definition. Whether it is court or anybody everyone knows what agriculture is and it is impossible to lay down an exhaustive definition of what all is included in the term agriculture. Far from being a help it may create difficulties. It may include other things than the particular things specifically mentioned. Any dictionary would show what agricultural purpose is and no difficulty has so far been experienced in understanding the term. It is a well-known word in law and usage and there is no necessity for a definition now.”

* Sriman M. G. PATNAIK Mahasayo:—“ The hon. the Advocate-General failed to note the insertion of the word ‘ includes. ’ Moreover, there is some difficulty about it. As stated in 31 Madras, there is a good deal of difference of opinion about it and therefore some such definition is necessary. When a man takes a piece of land just for habitation for his cattle or farm-servants, is that an agricultural purpose

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or not? He uses it as a ryot for an agricultural purpose. The fear that this definition would exclude other purposes is not well-founded. It does not mean to exhaust all the purposes. The word 'includes' comprehends other purposes also that may be taken into consideration. What those purposes are, are by way of illustration given here. Therefore I think that the definition is necessary as the matter is very very indefinite and vague."

Rao Bahadur Sir A. P. PATRO:—"I think there is a good deal of force in what the hon. Member for Ganjam has stated. Ordinarily, of course, no difficulty arises and courts as well as officers could interpret what the purpose of agriculture means. Of course, Legislature has to provide in the proper way. But in cases where ill-feelings arise and feelings run high, there is much agitation and the landlord tries to impose his will on the tenant. In such cases, difficulties actually arose where the landlords did not permit the tenants to have a portion of his ryoti holding into a dwelling house or as a shed for cattle. In such cases, they will have to be ejected from their lands. There are instances where the landlords have actually treated the tenants so strictly. Therefore, the purpose of the hon. Mover is to meet such difficult circumstances. Whether the landlord is extraordinarily ungenerous and wants to take action as a matter of revenge against the tenant or whether subordinate officers of the zamindar harass the tenants for not paying the customary dues to them, it does create a difficulty. It is to prevent those difficulties that the hon. Member is moving this amendment."

Mr. P. PEDDIRAJU:—"Mr. President, one word about this thing. So far as I know construction of habitation for tenant is sometimes objected to on the ground that he has constructed for his own habitation. What is necessary for agriculture is a small hut for farm-servants and not for the agriculturist himself. If there is any doubt, the habitation of tenant must be included. There is no harm in including it because the word 'includes' also is there."

* Diwan Bahadur Sir ALLADI KRISHNASWAMI AYYAR:—"The object of this amendment is to enable the ryot to use this land for an agricultural purpose, and it is therefore proposed to make it clear by putting it in the definition. But merely including the term in the definition clause would not serve the purpose. If that is the object it must be definitely provided by a separate section that the ryot must have the privilege to use it for this purpose or for that whenever it is absolutely necessary for him to do so. On the other hand, merely putting it in the definition will not achieve the purpose. Supposing a man has no land and merely stores manure or some other thing, the landlord can claim rent and file a suit. I do not think that is the object of the hon. Members. If it is the object that the ryots must have a free use of the land, you must make it clear in the section which enables the ryot to use the land. That object is not served

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by interfering with the definition of the word 'rent.' By doing so, you will be only giving the landlord the right to sue. I am afraid it is not in the interests of the ryot. The ryot must be given the permission and privilege for using the land for auxilliary purposes by the introduction of a substantive provision dealing with the ryot to use it."

The amendment was put and declared lost.

A poll was demanded and the House divided thus:—

Ayes.

- | | |
|-------------------------------------|--------------------------------------|
| 1 Dr. P. Subbarayan. | 14 Diwan Bahadur B. Muniswami |
| 2 Mr. K. R. Venkatarama Ayyar. | Nayudu. |
| 3 " T. C. Srinivasa Ayyangar. | 15 Mr. K. P. Raman Menon. |
| 4 " Sami Venkatachalam Chetti. | 16 " P. V. Krishnayya Choudari. |
| 5 " T. S. Ramaswami Ayyar. | 17 Sriman M. G. Patnaik Mahasayo. |
| 6 Khan Bahadur P. Khalif-ul-lah | 18 Mr. C. Indiraiah. |
| Sahib Bahadur. | 19 " J. Kuppuswami Choudari. |
| 7 Mr. Abdul Hameed Khan. | 20 Mahboob Ali Baig Sahib Bahadur. |
| 8 " Bashcer Ahmed Sayeed. | 21 Mr. G. R. Premayya. |
| 9 " K. A. Nachiyappa Gounder. | 22 " K. Pattabhiramayya. |
| 10 The Pattagar of Palayakottai. | 23 Rao Bahadur R. K. Venugopal |
| 11 Mr. K. S. Sivasubrahmanya Ayyar. | Nayudu. |
| 12 " P. Peddiraju. | 24 " Sir A. P. Patro. |
| 13 Moulvi Hafeez Anumanthakudi | 25 Rao Sahib V. I. Muniswami Pillai. |
| Mustapha Ahmed Meeran. | 26 Mr. G. Lakshmana Reddi. |

Noes.

- | | |
|--|--|
| 1 The hon. Khan Bahadur Sir Mahomed Usman Sahib Bahadur. | 22 Rao Sahib D. V. Narasimhaswami. |
| 2 The hon. Diwan Bahadur Sir M. Krishnan Nayar. | 23 Mr. B. P. Sesha Reddi. |
| 3 The hon. Sir Archibald Campbell. | 24 " G. Sriramulu. |
| 4 " Mr. H. G. Stokes. | 25 " P. C. Moses. |
| 5 " Diwan Bahadur S. K. maraswami Reddiyar. | 26 " P. V. Rajagopala Pillai. |
| 6 " Mr. P. T. Rajan. | 27 " V. G. Vasudeva Pillai. |
| 7 " the Raja of Bobbili. | 28 Khan Bahadur Yahya Ali Sahib Bahadur. |
| 8 Rao Bahadur G. Jagannadha Raju. | 29 Mr. P. Bayappa Reddi. |
| 9 Mrs. K. Alamelumangathayaramma. | 30 Rao Sahib V. Dharmalingam Pillai. |
| 10 Diwan Bahadur Sir Alladi Krishnaswami Ayyar. | 31 Rao Bahadur D. Kirshnamurti. |
| 11 Rao Bahadur V. N. Viswanatha Rao. | 32 Rao Sahib P. Subrahmanya Chetti. |
| 12 Mr. J. A. Thorne. | 33 Diwan Bahadur A. Appadurai Pillai. |
| 13 " H. M. Hood. | 34 Mr. A. Ramakrishna Reddi. |
| 14 Diwan Bahadur N. Gopalswami Ayyangar. | 35 S. M. K. Beyabani Sahib Bahadur. |
| 15 Mr. R. Madanagopal Nayudu. | 36 Mr. K. Kesvaramamurti Nayudu. |
| 16 " E. Conran Smith. | 37 Rao Sahib Pandit Ganala Ramamurti. |
| 17 " T. Sundara Rao Nayudu. | 38 Mr. M. A. Muthiah Chettiyar. |
| 18 Khan Sahib Syed Tajudin Sahib Bahadur. | 39 Sri A. V. Bhanoji Rao. |
| 19 Rao Bahadur A. T. Pannirselvam. | 40 The Kumararaja of Venkatagiri. |
| 20 Rao Sahib N. Siva Raj. | 41 The Raja of Khalikote. |
| 21 Subadar-Major S. A. Nanjappa Bahadur. | 42 The Zamindar of Mirzapuram. |
| | 43 Rao Bahadur C. Natesa Mudaliyar. |
| | 44 The Maharaja of Venkatagiri. |
| | 45 Diwan Bahadur S. Ellappa Chettiyar. |

Ayes 26.

Noes 45.

The amendment was lost.

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Clause 2 (8) (b).

4-15
p.m.

* Diwan Bahadur B. MUNISWAMI NAYUDU:—"Sir, I move the amendment standing in my name, viz.—

'In the explanation proposed, after the word "who" insert the words "or whose predecessors in title".'

"The clause confers occupancy right on persons who occupied ryoti land for a continuous period of twelve years. As the explanation stands, it may lead to the construction that the same person should have been in possession for twelve years continuously, and the possession by his predecessor or his alienor may not count. To make it clear that not merely the period of possession by the particular person who may be a party to the suit but also the period of possession by his predecessor in title should count, I have moved this amendment. It is only for the purpose of making it clear that the possession need not be by the same person for the whole of the twelve years' period."

Mr. P. V. KRISHNAYYA CHOUDARI:—"I second it."

* The hon. the PRESIDENT:—"I think it requires a little verbal alteration. The amendment will, therefore, be—

'In the explanation proposed, after the words "who" insert the words "or whose predecessors in title have" and omit the word "has".'

* The hon. Sir ARCHIBALD CAMPBELL:—"Mr. President, I understand that legally the word 'person' includes also his predecessors in title. I think the House would like to hear the Advocate-General as it is mainly a matter of law."

* Diwan Bahadur Sir ALLADI KRISHNASWAMI AYYAR:—"Mr. President, the amendment seems to be unnecessary. Whenever you clothe a person with rights, it includes his predecessor in title. To acquire the right, the land must have been occupied for a continuous period of twelve years. Unless he has been in possession, he is not transformed into the position of a ryot under the Act. Therefore twelve years need not be completed in regard to the particular person who is made a ryot by the force of the definition. The object is to clothe a person and his successors in title who have been in continuous possession for twelve years. It is only at the point of time when twelve years of occupation are completed that he is raised to the position of a ryot and before he is not in that position. I therefore submit this amendment is unnecessary, and I would request the hon. Mover not to press it."

Diwan Bahadur B. MUNISWAMI NAYUDU:—"I withdraw the amendment."

The amendment was, by leave, withdrawn.

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Diwan Bahadur B. MUNISWAMI NAYUDU:—"My amendment No. 43^a is only an amendment consequential on the omission of the word 'lanka,' I would not move it if a consequential amendment is going to be moved."

The hon. Sir ARCHIBALD CAMPBELL:—"Sir, I move—
'that sub-clause (i) of sub-clause (9) be omitted.'

"That is consequential on the omission of any reference to lankas. The effect of this omission will be that the definition will read, "Ryoti land" means cultivable land in an estate other than private land, but does not include . . ."

The hon. Diwan Bahadur Sir M. KRISHNAN NAYAR:—"I second it."

The amendment was put and carried.

* The hon. the PRESIDENT:—"Amendment Nos. 46 and 47^b are not within the scope of the Bill."

Mr. SAMI VENKATACHALAM CHETTI:—"Section 3 (16) (a) is within the subject-matter of the Bill. Is it your opinion, Sir, that section 3 (16) (b) and (c) are not?"

* The hon. the PRESIDENT:—"I think so."

Clause 2, as amended, was then put and carried.

Clause 3.

* The hon. the PRESIDENT:—"Amendment Nos. 48 and 49^c are not within the scope of the Bill."

^a 43 In the amendment proposed omit all the words beginning with 'and includes lanka land, etc.' and ending with 'old waste.'

^b Clause 2 (9).

Section 3 (16) (b).

Mr. ABDUL HAMEED KHAN,—

Mr. SAMI VENKATACHALAM CHETTI:—

46 In section 3 (16) (b) of the Act add after the word 'village-sites,' the words 'village roads, porambokes, village pasturage, forests and burial and burning grounds and the pathway to and from them.'

Section 3 (16) (c).

Diwan Bahadur B. MUNISWAMI NAYUDU,—

Mr. SAMI VENKATACHALAM CHETTI:—

47 Omit sub-clause (c) in section 3 (16) of the Act.

^c Clause 3.

Section 4.

Mr. ABDUL HAMEED KHAN,—

Mr. SAMI VENKATACHALAM CHETTI:—

48 Add the following paragraphs: "The landholder is bound to maintain the irrigation and drainage works and to allow sufficient water for irrigation, and protect the lands from floods and other inclemencies of the weather.

The ryot is entitled to sue the landholder for negligence of the same."

New clause after clause 3.

Section 5.

Mr. ABDUL HAMEED KHAN,—

Mr. SAMI VENKATACHALAM CHETTI:—

49 Add the following proviso to section 5 of the Act:—

"Provided the landholder has exchanged patta and muchilika with the ryot in possession and against whom he intends to proceed."

[3rd November 1933]

Clause 4.

Section 6.

Mr. SAMI VENKATACHALAM CHETTI:—"I move—

'in the proposed section 6 (1), omit the words "not being old waste" in lines 3 and 4.'

"It is merely consequential."

Mr. P. V. KRISHNAYYA CHOUDARI:—"I second it."

The hon. Sir ARCHIBALD CAMPBELL:—"I accept it."

The amendment was put and carried.

Section 6, sub-section (2).

The KUMARARAJA OF VENKATAGIRI:—"Sir, I move—

'that sub-section (2) of section 6 be omitted'."

Khan Bahadur YAHYA ALI SAHIB Bahadur:—"I second it."

The hon. Sir ARCHIBALD CAMPBELL:—"I accept it."

The amendment was put and carried.

Sub-section (3).

* Sriman M. G. PATNAIK Mahasaya:—"Sir, I move the following amendment:—

'Omit the following in sub-section (3):—

"For raising a garden or tope or".'

"Section 6 (3), as amended by the Select Committee, runs as follows:—

'Admission to waste land under a contract for the pasturage of cattle and admission to land reserved bona fide by a landholder for raising a garden or tope or for forest under a contract for the temporary cultivation thereof . . .'

"It is for the first time that this phrase 'for raising a garden or tope' has been introduced. There is no reason why its scope should be so widened. The landholder may reserve some waste land for any length of time and say 'that he has reserved it for a garden or a tope.' He may never grow a garden or tope, and no occupancy right can therefore be secured by the tenant. Therefore it is not desirable that occupancy right should be withheld for any length of time under this plea of raising a garden. That is opposed to the principles of the Act. It is always open to the zamindar to acquire such land for a tope or garden

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and so long as it is in his possession he plants trees therein. When once he lets out to somebody, there is absolutely no reason why the ryot should not have occupancy rights."

Mr. P. V. KRISHNAYYA CHOUDARI:—"I second it."

* The hon. Sir ARCHIBALD CAMPBELL:—"Sir, I am not prepared to accept this amendment. These words 'for raising a garden or tope' were inserted by the Select Committee deliberately in order to enable the landholder to raise topes and gardens gradually. Naturally, it takes a little time to plant trees or to raise a garden, a portion of it may be let out for temporary cultivation by the landholder, and this should not prevent the landholder from resuming it when he is ready to plant it up as a garden. The Select Committee has put it in as quite a reasonable provision."

Sriman M. G. PATNAIK Mahasayo:—"No doubt the Select Committee introduced that; but the question is whether it is right to go on adding to the purposes mentioned there. If the words 'for raising a garden or tope or' are there, it would be possible for the zamindars to reserve the lands for these purposes also and prevent anybody securing occupancy rights. It is opposed to the principles of the Act. All that the Revenue Member says is that it was a thing introduced by the Select Committee. Are we on that score to go on helping the zamindars? I request the House to accept my amendment and omit the words 'for raising a garden or tope or.'"

4-30
P.m.

The amendment was put and lost.

Mr. SAMI VENKATACHALAM CHETTI:—"Mr. President, I request that the consideration of amendment No. 56^a might be postponed to Monday. It is possible that you might consider it irrelevant now.

^a 56 In clause 4, number section 6 (3) as 6 (3-A), and add the following to it:—

"Provided that no forest land adjoining a village shall be so reserved by the landholder without the previous sanction of the Collector; such sanction shall not be given unless an extent of the forest land which, in the opinion of the Collector, is sufficient for the needs of the ryots of the village for the purposes mentioned in clause (b) of this sub-section, is excluded from the reserve and set apart for common use by the ryots for the said purpose without payment of any fees.

'Provided further that nothing in this sub-section shall affect any special rights which by law or custom the ryots may have in the pasture land or forest land of the estate in regard to grazing of cattle, taking timber for agricultural purposes or fuel, gathering leaf for manurial purposes and the like."

6 (3-B) Notwithstanding the absence of proof of any special rights, reserved to in the foregoing provisos, the ryots holding land in the village in which the pasture land or forest land reserved by the landholder is situated, shall, on payment of such fees as may be agreed upon between them and the landholder or settled by the Collector on application by the ryots holding not less than one-eighth of the total extent of the holdings in the village, be entitled to (i) graze their cattle, (ii) take timber for agricultural implements, and (iii) to gather leaf for manurial purposes in such pasture land and reserved forest land.

[Mr. Sami Venkatachalam Chetti] [3rd November 1933]

But I hope to make it relevant by means of some changes in it after there has been a talk on the matter with other hon. Members of the House. You can give your ruling on the amendment which will then be proposed."

Mr. V. P. NARAYANAN NAMBIYAR:—"I second it."

The hon. the RAJA OF BOBBILI:—"Before you decide this question, I think it would be useful to us if you give your ruling whether the amendment is relevant or not. If you consider it irrelevant, we will sit together and make suitable changes in it."

* The hon. the PRESIDENT:—"As worded, I think it is outside the scope of the Bill. Unless a separate amendment is going to be brought in so as to make it possible for me to admit it, my ruling will go against the amendment."

Mr. SAMI VENKATACHALAM CHETTI:—"It is in anticipation of your ruling with regard to its relevancy, I asked for time to suitably word it. If I did not move the adjournment of the consideration of this thing now, it will be said that the consideration of the clause is over and any further amendment is out of time. It is just to avoid that kind of obstacle that I wanted that the consideration of the whole thing be left over till Monday. The ruling that you are now asked to give might be given on Monday if the amendment is brought in in the same form; but if it is improved and brought in in another form, your ruling might be different."

In deference to the wish of the hon. Member the consideration of the clause was not taken up.

* The hon. Sir ARCHIBALD CAMPBELL:—"Mr. President, I move a consequential amendment to omit from explanation (2) of section 6 in line 3, the words 'other than old waste'."

The hon. Diwan Bahadur Sir M. KRISHNAN NAYAR:—"I second it."

The amendment was put and carried.

* The hon. Sir ARCHIBALD CAMPBELL:—"Sir, I move another consequential amendment to move and it is this—

'In clauses (3) and (4) omit the words "or entitle him to the benefit of section 157".'

"Section 157 relates to old waste and these words have therefore to be deleted in these clauses."

The hon. Diwan Bahadur Sir M. KRISHNAN NAYAR:—"I second the amendment."

The amendment was put and carried.

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Clause 4.

Section 6 (4).

* Diwan Bahadur B. MUNISWAMI NAYUDU :—“ I move the following amendment :—

‘ Add between the words “ under section 186 may ” and the words “ with the previous permission,” the following :—

“ for a period not exceeding three years in the aggregate ”.’

“ This clause deals with the lands acquired by a zamindar for definite public purposes under section 186. It may be that for some time it is not possible for him to carry out the purpose for which it was acquired, but in the meanwhile this enables him to prevent occupancy right accruing to anybody on that land. While it is necessary to give some kind of right to the landlord to prevent occupancy rights accruing in such lands, yet, it may not be right to prevent occupancy rights being acquired for any length of time by going on leasing the land from year to year or for periods of years with the permission of the Collector. By this means it is possible to defeat the object of the Act itself. I therefore think that we should limit the period to three years within which time the landlord should make up his mind to use the land for the purpose for which it was acquired. If at the end of these three years the landlord does not require it, then he should grant occupancy right to the ryot. I have, however, no objection to fix some other reasonable period for this purpose. The object of my amendment is to get the landlord make up his mind and carry out the object for which it was acquired within a reasonable time. I therefore request the House to accept my amendment.”

Mr. P. V. KRISHNAYYA CHUDARI :—“ I second it.”

* The hon. Sir ARCHIBALD CAMPBELL :—“ Sir, I am prepared to accept the amendment.”

The amendment was put and carried.

Clause 5.

Section 6-A.

* Diwan Bahadur B. MUNISWAMI NAYUDU :—“ I move the amendment standing in my name, viz.—

‘ omit the proposed section 6-A and renumber section 6-B as 6-A.’

“ Sir, clause 6-A deals with lankas and therefore it has to be omitted.”

Dr. P. SUBBARAYAN :—“ I second it.”

The amendment was put and carried.

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Clause 5—cont.

Section 6-B.

The KUMARARAJA OF VENKATAGIRI:—"Sir, the amendment standing in my name deals with pasturage rights. As a similar amendment dealing with pasturage rights has been postponed for consideration on Monday, I request you to allow me also to move this on Monday whatever your ruling on that may be."

Consideration of the amendment was accordingly postponed to Monday.

* 63-A. The following shall be added after 6-B, namely:—

" 6-C. (1) On the application of the landholder or of a ryot or ryots holding not less than one-eighth of the ryoti land in a village the Collector shall, subject to such rules as the Local Government may make in this behalf, fix the extent of land to be set apart for the grazing of the cattle belonging to the ryots of the said village out of the available pasture or forest land in the said village calculated in the following manner:—

- (a) The Collector shall first determine the number of plough cattle required for the cultivation, in the usual course of husbandry of the ryoti lands in the village.
 - (b) The extent of land to be set apart shall then be calculated at the rate of half an acre per head of plough cattle in the case of pasture land and at the rate of 1 acre in the case of forest land.
 - (c) Out of the extent so calculated a deduction shall be made of the extent of the pasture or forest land which has been already set apart by the landholder as communal grazing ground or otherwise included in the holding of a ryot.
- (2) The landholder shall, within three months after the passing of an order by the Collector under sub-section (1), demarcate the land or additional land directed by the Collector to be set apart. Failing such demarcation by the landholder, the Collector shall himself demarcate such land or additional land out of the available pasture or forest land in the village.
 - (3) On the making of an order under sub-section (1) and the demarcation of the land under sub-section (2) the ryots of the village shall be deemed to have entered into an agreement with the landholder to pay jointly and severally grazing fees at such rates and for such period as may be agreed upon between the landholder and the ryots and failing such agreement, at such rates and for such periods as the Collector may fix.
 - (4) Pasture or forest land set apart as aforesaid shall not be used for any other purpose than that for which it is intended under the foregoing provisions nor shall such lands be used for grazing of cattle belonging to persons other than the ryots holding land in the village in which the said pasture or forest land is situated.
 - (5) If the Collector is satisfied, on an application by the landholder, that any of the foregoing provisions have been contravened by any ryot or ryots he may award such compensation to the landholder as he may deem fit.
 - (6) In any of the matters aforesaid the decision of the Collector is final and shall not be questioned in any court of law.
 - (7) An application under sub-section (1) shall be dismissed if the Collector is satisfied that the applicant or applicants had not previously applied to the landholder to set apart such pasture land and that the landholder had not prior to the date of the application refused or neglected so to set apart,

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* The hon. Sir ARCHIBALD CAMPBELL:—"I beg to move a consequential amendment to section 8, which is as follows:— 4-45 p.m.

'Omit the proviso to section 8, sub-section (1) of the Act.'"

The hon. Diwan Bahadur M. KRISHNAN NAYAR:—"I second it."
The amendment was put and carried.

Clause 7.

Section 8 (4).

The KUMARARAJA OF VENKATAGIRI:—"Sir, I move—

'In sub-section (4) of the new section 8, omit the words "In the case of an estate not falling under sub-clause (d) of clause 2 of section 3".'"

Mr. T. SUNDARA RAO NAYUDU:—"I second it."

The amendment was put and carried.

Clause 7.

Section 8 (4).

Rao Sahib N. SIVA RAJ:—"Sir, I beg to move—

'In the section 8 (4) omit the words "and the person so admitted shall not be entitled during such period to the benefit of the provisions of section 46".'"

Mr. T. SUNDARA RAO NAYUDU:—"I second it."

The amendment was put and carried.

Clause 8.

Section 12.

The KUMARARAJA OF VENKATAGIRI:—"I beg to move—

'Add the following to the new section 12 which shall be numbered as section 12, sub-section (1):—

"but it shall be open to a ryot on payment to the landholder of such compensation as may be fixed by the Collector on an application made to him in that behalf to acquire the right to use, enjoy, cut down, carry away or otherwise dispose of all trees which were in his holding on the 1st day of July 1908 and in respect of which rights were reserved to the landholder by custom or by contract in writing as aforesaid".'

"Sir, I agree that this section is very necessary in order to enable the ryot to acquire the right to use, enjoy, cut down, carry away or otherwise dispose of the trees which were in his holding on the 1st day of July 1908 after paying such compensation to the landholder as the Collector may fix. By this I can say that the interests of both the landlord and tenant are secured."

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Mr. V. P. NARAYANA NAMBIYAR:—"I second it."

* The hon. Sir ARCHIBALD CAMPBELL:—"I accept it."

The amendment was put and carried.

Rao Sahib N. SIVA RAJ:—"Sir, I beg to move—

'Add the following as section 12, sub-section (2), namely:—

"12 (2) Nothing contained in the previous sub-section shall be deemed to affect the rights of any third person or to entitle an occupancy ryot to acquire compulsorily the right to use, enjoy, cut down, carry away or otherwise dispose of the trees included in a tree patta issued to a third person".

Mr. V. P. NARAYANA NAMBIYAR:—"I second it."

* The hon. Sir ARCHIBALD CAMPBELL:—"I accept it."

The amendment was put and carried.

The House adjourned to meet again at 11 a.m. the next day.

IV.—PAPERS LAID ON THE TABLE OF THE HOUSE.

^a 1. Leaflets Nos. 5 and 6 issued by the Madras Neo Malthusian League.

^b 2. G.O. No. 698, Finance, dated 27th October 1933, regarding the appointment of M.R.Ry. Diwan Bahadur A. Appadurai Pillai Avargal, as a Member of the Public Accounts Committee vice M.R.Ry. Rao Bahadur D. Krishnamurti Nayudu Garu.

^c 3. List of posts on Rs. 500 per mensem and above created during the quarter ending 30th September 1933.

R. V. KRISHNA AYYAR,
Secretary to the Legislative Council.